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10/044,098	01/11/2002	Ronald E. Decker	4803-1	7541
23442 7590 04/01/2008				
SHERIDAN ROSS PC				
1560 BROADWAY				
SUITE 1200				
DENVER, CO 80202				
EXAMINER				
TRAN, HANH VAN				
ART UNIT		PAPER NUMBER		
3637				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/044,098

**Applicant(s)**

DECKER, RONALD E.

**Examiner**

Hanh V. Tran

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 12, 13, 15, 17-21, 23-30 and 33-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12, 13, 15, 17-21, 23-30 and 33-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/13/2008 has been entered.

***Specification***

2. The amendment filed 2/13/2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: applicant's attempt to amend the paragraph beginning on page 12, line 21 by replacing "the coupling mechanism 22 is further comprised" by "the coupling mechanism 22 is may be comprised". More specifically, replacing the term "further comprised" by "may be comprised" is considered to be changing the scope of the disclosure, thus introduces new matter into the disclosure.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation in claim 1 of the self-lubricating member "extending upwardly from" the support member (it

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appears that the support member is the element which extends upwardly from the base) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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5. Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. More specifically, the limitation in claim 1 of the self-lubricating member "extending upwardly from" the support member is not properly supported in the disclosure (it appears that the support member is the element which extends upwardly from the base).

***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-7, 9-10, 12, 19-21, 23, 25-30, 33-35, 37-38, and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paradigm Industries, Inc., Photographs of a stand first offered for sale approximately September of 2001 (Paradigm Stand) in view of USP 849,403 Kiser and German 2,601,223 to Peddinghaus.

Paradigm Stand discloses a stand comprising a base, a support member interconnected to the base and extending upwardly therefrom, a support sleeve/slidable member having at least a top surface and in slidable telescopic cooperation with the support member, a lift platform associated with the top surface of the support sleeve, a coupling mechanism interconnected to the support sleeve/slidable member, an actuating lever interconnected to the coupling mechanism, a clevis interconnected to the base, at least one link member pivotally interconnected to the clevis and the actuating lever, and wherein the stand can be selectively positioned between a first position of rest and a second position of use. The different being that Paradigm Stand does not disclose the coupling mechanism including a collar removably attached and adjustably positionable at a plurality of positions along the height of the slidable member, wherein the collar comprising a first portion having an arcuate inner surface and a second portion having an arcuate inner surface fastened to each other by at least one fastener, a self-lubricating member, said self-lubricating member be either a sleeve or at least one strip, and a seal member.

Kiser teaches the idea of a height adjustable stand comprising two cylindrical support sleeves slidable relative to each other, a coupling mechanism including a collar removably attached and adjustably positionable at a plurality of positions along the height of the slidable member, wherein the collar comprising a first portion having an arcuate inner surface and a second portion having an arcuate inner surface fastened to each other by at least one fastener, an operating lever b9 pivotally mounted in the collar to adjust the height of the stand.

Peddinghaus teaches the idea of providing a plurality of telescoping members with a self-lubricating member, which can be either a sleeve or a strip in order to facilitate relative adjustment of the telescoping members. Therefore, it would have been obvious to modify the structure of Paradigm Stand by having the coupling mechanism to include a collar removably attached and adjustably positionable at a plurality of positions along the height of the slidable member, wherein the collar comprising a first portion having an arcuate inner surface and a second portion having an arcuate inner surface fastened to each other by at least one fastener, as taught by Kiser, and providing a self-lubricating member in the form of a sleeve or a strip in order to facilitate relative adjustment of the telescoping members, as taught by Peddinghaus, since the references teach alternate conventional telescoping members structures, thereby providing structure as claimed. In regard to a seal member, it would have been obvious and well within the level of one skill in the art to provide the stand of Paradigm Stand with a seal member in order to prevent dirt from entering the telescoping members.

9. Claims 8, 24, 36, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paradigm Stand, as modified, as applied to claims 1, 19, 34, and 38 above, and further in view of USP 5,769,396 to Tischendorf.

Paradigm Stand, as modified, discloses all the elements as discussed above except for the clevis is removable.

Tischendorf discloses a stand comprising a base, a lift platform, an actuating lever, and a removable clevis; wherein the removable clevis allows a more compact stand in the storage configuration. Therefore, it would have been obvious to modify the

structure of Paradigm Stand, as modified, by having the clevis being removable in order to provide a more compact stand in the storage configuration, as taught by Tischendorf, since both teach alternate conventional stand structure, used for the same intended purpose, thereby providing structure as claimed.

10. Claims 13, 15, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paradigm Stand in view of USP 849,403 Kiser, USP 5,769,396 to Tischendorf and German 2,601,223 to Peddinghaus.

Paradigm Stand, as stated in paragraph #4 above, discloses all the elements recited in the above listed claims 13, 16, and 18, including the claimed limitation of the actuating lever operatively communicating with the support sleeve to allow the lift platform to be adjusted to a plurality of heights, i.e., the first height position of rest and the second height position of use. The differences being that it does not disclose a collar removably attached and adjustably positionable at a plurality of positions along the height of the support sleeve, the clevis is removable and a self-lubricating member, said self-lubricating member be either a sleeve or at least one strip.

Kiser teaches the idea of a height adjustable stand comprising two cylindrical support sleeves slidable relative to each other, a coupling mechanism including a collar removably attached and adjustably positionable at a plurality of positions along the height of the slidable member, wherein the collar comprising a first portion having an arcuate inner surface and a second portion having an arcuate inner surface fastened to each other by at least one fastener, an operating lever b9 pivotally mounted in the collar to adjust the height of the stand. Therefore, it would have been obvious to modify the



structure of Paradigm Stand by having the coupling mechanism to include a collar removably attached and adjustably positionable at a plurality of positions along the height of the slidable member, wherein the collar comprising a first portion having an arcuate inner surface and a second portion having an arcuate inner surface fastened to each other by at least one fastener, as taught by Kiser, since both teach alternate conventional telescoping members structures, thereby providing structure as claimed.

Tischendorf discloses a stand comprising a base, a lift platform, an actuating lever, and a removable clevis; wherein the removable clevis allows a more compact stand in the storage configuration. Therefore, it would have been obvious to modify the structure of Paradigm Stand by having the clevis being removable in order to provide a more compact stand in the storage configuration, as taught by Tischendorf, since both teach alternate conventional stand structure, used for the same intended purpose, thereby providing structure as claimed.

Peddinghaus teaches the idea of providing a plurality of telescoping members with a self-lubricating member, which can be either a sleeve or a strip in order to facilitate relative adjustment of the telescoping members. Therefore, it would have been obvious to modify the structure of Paradigm Stand, as modified, by providing a self-lubricating member in the form of a sleeve or a strip in order to facilitate relative adjustment of the telescoping members, as taught by Peddinghaus, since both teach alternate conventional telescoping members structures, thereby providing structure as claimed.

***Response to Arguments***

11. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dube' et al, Affolter, Dyer, Jr., Bullis, Grant, Beard, and Zoeller et al all show structures similar to various elements of applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571)272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT

March 17, 2008

/Hanh V. Tran/

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